

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DERRICK BASS,

Defendant.

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Case No. 8:08CR274

ORDER

This matter is before the court on the government's oral Motion for Determination of Mental Competency (#10) and the defendant's oral Motion for a Second Opinion pursuant to 18 U.S.C. § 4241 (#25).

On July 17, 2008 the court ordered (#18) that the defendant, Derrick Bass, may not be presently competent to stand trial and that he should be examined. On November 19, 2008 the court received the forensic evaluation from the Bureau of Prisons finding the defendant competent to stand trial. On November 7, 2008 the court granted the defendant's oral motion for a second opinion (#26).

On May 4, 2009, the court received a forensic report (the second opinion) from Dr. Terry A. Davis.

On May 11, 2009 a hearing was held before the undersigned magistrate. The defendant was present and represented by counsel, Andrew Hilger. The United States was represented by Douglas Semisch, Assistant United States Attorney. The April 30, 2009 forensic report of Dr. Davis was received into evidence without objection. No additional evidence was adduced.

I find by a preponderance of the evidence that the defendant is not presently suffering from a mental disease or defect which renders him mentally incompetent to understand the nature and consequences of the proceedings against him or to assist properly in his defense pursuant to 18 U.S.C. § 4241. Accordingly, I find that this case should be set for trial.

IT IS ORDERED:

1. The Motion for Determination of Mental Competency (#10) is denied.
2. The defendant is not suffering from any mental disease or defect which renders him mentally incompetent to understand the nature and consequences of the proceedings against him or to assist properly in his defense pursuant to 18 U.S.C. § 4241.
3. This case should be progressed by separate order.

Dated this 11th day of May 2009.

BY THE COURT:

S/ F. A. Gossett
United States Magistrate Judge